

**IN THE CONSISTORY COURT OF THE DIOCESE OF BIRMINGHAM**  
**AND IN THE MATTER OF A PETITION FOR FACULTY**  
**IN RESPECT**  
**OF ST STEPHEN, SELLY PARK**

**INTERIM JUDGMENT**

1. By Petition dated the 23<sup>rd</sup> September 2012 the Vicar and church wardens of St Stephen, Selly Park, Birmingham, seek a faculty for the reordering of St Stephen.
2. This Petition has a lengthy history and the work that is proposed has been divided into two phases. At the moment I am only being asked to consider the work envisaged in phase 1 in overall proposals which are set out in a leaflet entitled "Building for the Future". In considering the matter I have had the enormous advantage of being able to visit the church with the Registrar and I should express my gratitude to the Vicar and the church wardens for the welcome that we received. The proposals have been extensively considered by the Diocesan Advisory Committee and it appears that the plans have been in the making since at least 2009 and possibly 2005. As always I express my gratitude to the DAC for their wise counsel but I should stress that the decision that I come to is mine and mine alone.
3. As was apparent on my visit, St Stephen is a magnificent Victorian church built in the 1870's in a typical Gothic Revival style. The church comprises 5 towers and this has given rise to considerable weathering, especially at upper levels. A tower and spire rise above the main southwest entrance porch, the roofs are timber trusses covered with plain tiles. A large choir vestry was added in the 1920's in the same architectural idiom and – in two recent phases, a social complex of divisible small rooms known as the Dain Room – and ancillary bases. The flat roof addition runs along the northern elevation and can be described as a rather flimsy construction. The main rooms interconnect and are at a different level from the church. I think it is fair to say that the extension comprising the Dain Room is in no way as aesthetically pleasing as the remains of the building.

4. Phase 1 of the schedule of proposed work which is all that I am considering at the moment, relates to work to be carried out to the exterior of the church. The proposed phase 2 will cover the work to the interior of the church.
  
5. In detail I am asked to authorise:-
  - i. The construction of a foyer at the west end of the church which would link the proposed parish centre to the church.
  
  - ii. The insertion in the wall under the west window of double doors giving access into the new foyer and the stabilising of the west wall which is subject to old but stable minor cracking.
  
  - iii. The removal of the old stone font as part of the work at the west end and its disposal in accordance with permission from the Bishop of Birmingham. (It is intended that in phase 2 this font will be replaced by the baptistery with a new portable wooden font to match the existing chancel furniture.
  
  - iv. The construction of a new parish centre which will be attached to the north wall of the church by a light weight glass link in the form of a valley, providing light into the parish centre and a new view of the north wall of the church. This would involve the demolition of the church wall and the new building would be of two storeys. This will provide additional space for children's and other activities and additional new office space.
  
  - v. These works will clearly have a major impact on the visual aspect of the church which is a grade 2 listed building.
  
  - vi. These proposals have been the subject of extensive negotiations and discussion between the parish and the DAC. The advice from the DAC contained in the document dated the 14<sup>th</sup> November 2012 supports the demolition of the existing church hall and the building of the two storey extension as a new parish centre. They also support the cleaning of the exterior stonework and re-pointing and repairing as required but make some observations about the proposals to install new paving and rough planting in the vicinity of the new foyer and hall. It does not seem to me

that the schedule of works set out as being in the Petition actually includes the proposed cleansing and re-pointing of the exterior stonework or indeed the new paving and rough planting in the vicinity of the foyer and I have therefore confined this Judgment to the works set out in the inserted sheet entitled "Phase 1 of 2 phases".

6. However there has been considerable debate about the construction of the foyer at the west end of the church. There may well be some confusion about the Petition because the document that I have referred to seeks permission for the construction of an "octagonal" foyer. However the information given to me at my visit, reinforced by the document dated the 18<sup>th</sup> December 2012 which was submitted to the City Council Planning and Regeneration Department following my visit to the church seems to indicate that the design which has been approved by the Planning Department is a circular design rather than an octagonal design. That I am correct in my assumption seems to be reinforced by the documentation which was submitted to me under cover of a letter dated the 8<sup>th</sup> March 2013 from Dr David Twiss, Chairman of the Building Development Group at St Stephen. That letter contains the following in reference to four different sets of plans setting out four different designs for the foyer "set 1 is the circular foyer which has already received planning permission". It is clear from the correspondence that a Faculty is sought for the design that has been approved by the planners but before I come to a final decision on that part of the Petition it seems to be only right that I should have formal confirmation from the Petitioners that it is the circular design that they wish me to consider and, given the fact that the DAC have been so involved in the discussions about the design I think it is right that they should have an opportunity of considering the correspondence from the church and perhaps most importantly from the Planning Authority. It seems that if anything other than the circular proposal is to be considered, a fresh Planning Application with its ensuing delay would be necessary. I am hopeful that that can be avoided. For those reasons it seems to me that it is right to give both the Petitioners and the DAC an opportunity to comment further and I do not propose in this judgment to come to a final decision about the foyer. What I can say however is that there seems to be no dispute about the concept of a new entrance, merely how it is to be achieved.

7. I have caused enquiries to be made of all parties as to whether they seek a oral hearing but I am told that they are happy that I should make my judgment on the

basis of the written submissions before me. I should say that through their membership of the DAC both the Victorian Society and English Heritage have had substantial input into the proposals.

8. I will therefore restrict my judgment at this stage to the Petition for the demolition of the existing church hall and its replacement by a parish centre and the removal of the old stone font. It seems to me that it would be better to consider the work to the west wall in conjunction with the application for the foyer because the purpose of the construction of the new entrance at the west end of the church is to allow access from the foyer. It seems to me self evident that if for whatever reason I was not able to grant a Faculty for the new foyer, then consideration would have to be given by the Petitioners as to whether they wish to carry out the work at the west end.
9. Finally in my preliminary observations I note that the works are supported unanimously by the PCC and the congregation.

#### The Reasons for the Petition

10. I am grateful to the Petitioners for providing me with a bound document dated May 2012 which contains, inter alia the Statement of Significance and the Statement of Need together with the experts' reports that have been obtained. The Petition is clearly well thought out and contains evidence of significant forethought in gathering together the information that I need to enable me to make an informed decision.
11. I have hopefully set out the significance of the church in an earlier paragraph of this Judgment but the architects were Martin and Chamberlain whose main focus in Birmingham was in the design of Civic buildings. I have read that Pevsner is of the opinion that so far as their church architecture is concerned, their work is less distinguished but I have to say that I was struck by the care that has obviously been lavished on the building and in particular by the splendour of the Chancel.
12. The Dain Room built in 1966 and extended in 1971 is dedicated to the memory of a local doctor who was chairman of the BMA and a member of the church. It is a single storey flat roofed building which provides a kitchen, office space, toilets and storage as well as a main meeting room which can be sub-divided into smaller rooms for Sunday School and other activities.

13. So far as this Petition is concerned the only other significance that I have to consider relates to the font. It is a traditional Victorian gothic font and was placed in the west end of the church in 1979 having previously been positioned in the southwest corner. It may be that its present lack of use renders it of “low significance” to the church but for the reasons that I set out hereunder it does seem to me that there is considerable significance from an architectural point of view. I am told that it has not been used for many years, public baptism taking place in the Chancel, making use of a silver rose bowl. I am aware that the Parish has entered into correspondence with the Bishop as to the proposals to remove the font and, in phase 2 of the proposals, to replace it with a baptistery and wooden font.
14. The church presently has seating for about 250 people; this is usually sufficient but there are times when it is packed and would clearly be insufficient if the Parish’s proposals to develop their worship and increase the size of the congregation come to fruition. The Dain Room has served the Parish well but having seen the building, the facilities are clearly at their limits in terms of the space available and the facilities that they provide. The Statement of Significance describes the Dain Room as “although highly functional and well used, it is of little significance”. I think that is an accurate assessment.
15. The Statement of Need gives helpful information about the present use of the church. It has an electoral role of 172 names, average attendance at the main Sunday Service comprises 150 adults and 55 children aged 3 to 11. The congregations are increasing year on year with an accent being on new families joining the congregation together with an increase in the number of students and young professionals coming to services both inside and outside the Parish. Sunday School takes place during the main service with children and young people regularly making up 25% of the congregation. It is clear that those sort of figures give force to the claim by the Petitioners that the facilities offered by the Dain Room are at bursting point with no room for expansion. In addition the different levels within the building present problems for disabled access, the toilet facilities need upgrading and there is a need for significantly more storage space and a larger better equipped kitchen.

16. Overall the intention of the proposed works are to make the church more welcoming so as to continue to develop what seems to be a highly successful programme of mission and outreach. Whilst I am not at this stage considering the foyer it seems to me that the purpose behind the proposals for the foyer (of whatever design) is to increase the sense of “welcome” that the church is anxious to give to the community.

### The Law

17. In considering the Petition I have had particular regard to the Judgment of the Arches Court of Canterbury IN RE: ST ALKMUND, DUFFIELD. From that case I extract the following principles:-
- i. Where planned work requires the consent of the local Planning Authority the fact that the local Planning Authority has given consent should be regarded as a starting point in considering the application.
  - ii. In circumstances where the “ecclesiastical exemption” applies, *“the right approach ... is to exercise the discretion as ... Parliament intended that it should be exercised, mainly, in accordance with established principles; and that includes the interest of the community as a whole in the special architectural or historic attributes of the building and to the desirability of preserving the building and any features of special architectural or historic interest which it possess. The discretion, however, is to be exercised in the context that the building is used for the purposes of the church. That is to say in the service of God, as the Church, doing its best, perceives how that service is to be rendered; and the weight to be given to the various aspects of the particular case is to be determined accordingly”.* (Para 85).
  - iii. When considering the proper approach to proposed alterations to a listed building *“it is part of the joy and interest of listed buildings, and in particular churches, that they include accretions, many of which are not entirely consonant in what was there before. If the accretion has merit, then normally it should not be removed, even in the interest of historical or architectural purity.”*(Para 50)

18. I should adopt the following approach of asking:
- i. Would the proposals if implemented result in harm to the significance of the church as a building of special architectural or historic interest?
  - ii. If the answer to question (1) is “no”, the ordinary presumption in Faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. Questions 3, 4 and 5 do not arise.
  - iii. If the answer to question (1) is “yes” how serious would the harm be?
  - iv. How clear and convincing is the justification for carrying out the proposals?
  - v. Bearing in mind that there is strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral wellbeing, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5) the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed grade 1 or 2\*, where serious harm should only exceptionally be allowed.
19. I should say at this juncture that St Stephen is a Grade 2 listed building.

#### Striking the Balance

20. I am satisfied from the documentation provided for me that the proposals for the replacement of the Dain Room by a parish centre in accordance with the plans submitted will not result in harm to the significance of the church as a building of special architectural or historic interest.
21. I therefore have to consider whether the presumption that things should remain as they stand is applicable or whether the matters contained in the Petition as to the

need of the parish to carry out the works proposed justifies rebutting the ordinary presumption.

22. I am satisfied that the proposals for the replacement of the Dain Room by a new building are carefully thought out, properly designed and are essential to the future development of the Parish in terms of its mission and its outreach. What was necessary for this particular Parish in the 1960's and 1970's was provided by the Dain Room and it was a fitting tribute to a distinguished Parishoner. However the success of the Parish in developing its congregation in providing a centre for a host of activities outside the main services has meant that the Parish has outgrown the existing provision. I am more than satisfied that to develop and to continue to develop the work of the Parish in the community a more modern larger facility needs to be installed and I am perfectly satisfied that the proposals for the new Parish centre meet those needs.
23. Some confusion has arisen as to the extent of Phase 1 of the Petition. It appears that the DAC understood (for what seemed to me to be good reason) that Phase 1 was restricted to the external works that the Parish seek to carry out. For that reason no comment has been formally advanced as to the request for the removal of the font. The present position of the font is immediately below the west window and were I to grant the Petition for the insertion of a pair of double doors below the west window, the font would obstruct the new entrance. For reasons that I have made clear I seek further information before deciding on the question of the proposed access to the West end and thus I am not in a position to make a final decision about the font. However I do note from the observations of the DAC that *"the stone font is an important piece with high quality leaf carving by the Leicester sculptor Samuel Barfield, who also did work for Martin and Chamberlain on the School of Art, Margaret Street ..."* It seems to me that there is substantial force in the argument of the DAC that the font was part of the original Martin and Chamberlain design of the church and an integral part of the Grade 2 Listed building. Were I to come to the view that the Petition to create an entrance at the west end of the building fails then the presumption of the status quo in respect of the font would prevail and I need not trouble myself with the matter further. However to assist the Parish and to pay due heed to the valid points raised by the DAC. It seems to me that a more felicitous solution would be that if the font needs to be



moved it should be retained within the church at a suitable place where its integral part of the original building can be appreciated.

24. I have already indicated that I seek clarification as to the foyer. I would hope that the Petitioners can confirm what I understand to be the position notwithstanding the document to which I have referred they seek permission for a circular foyer and I would be grateful to receive as a matter of urgency any observations that the DAC may have in response to the letter from Dr Twiss dated the 8<sup>th</sup> March 2013 and the documents which helpfully accompany that.
25. I would be hopeful to come to a conclusion about the Petition so far as it relates to the foyer very soon after I receive such submissions as the parties would wish to put to me.
26. At this stage therefore I grant a Faculty for the demolition of the Dain Room and its replacement by the new Parish centre in accordance with the plans submitted to me. I am mindful of the conditions sought by the DAC and think it appropriate that the final materials finishes and colours be specified fully and demonstrated on sample boards, and agreed with the DAC. Furthermore it would be appropriate to impose a timescale upon the work that I have approved and I would be pleased to hear from the Petitioners as to their estimation for this.
27. I will endeavour to deal with the outstanding matters as soon as the requisite information and observations have been forwarded to me.

**Dated this 22<sup>nd</sup> day of March 2013**